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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,805	10/28/2003	Michael R. Minogue	GEMS8081.183	2804
27061	7590	09/19/2005	EXAMINER	
ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (GEMS)			PEYTON, TAMMARA R	
14135 NORTH CEDARBURG ROAD			ART UNIT	
MEQUON, WI 53097			PAPER NUMBER	
			2182	

DATE MAILED: 09/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/605,805

Applicant(s)

MINOGUE ET AL.

Examiner

Tammara R. Peyton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 11-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-10,18-21 and 23 is/are rejected.
- 7) ☒ Claim(s) 3 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/31/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

ET

## **DETAILED ACTION**

### ***Election/Restrictions***

#### ***Response to Restriction Argument***

Applicant argues that Group I and Group II are not patentably distinct. Examiner disagrees with Applicant. Group I (1-10 and 18-23) is directed to receiving an activation key from a first location sent to a centralized location and configured to activate an option of a remote device located in a second location. Group II (11-17) is directed to a centralized location sending an activation option to a remote device located remotely from the centralized location. Group I and Group II are patentably distinct. Applicant's arguments are not persuasive and the restriction rejection is maintained.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-10, 18-21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evelend et al., (US 6,664,893) and Fenstermaker et al., (US 6,490,684), and in further view of Houghton et al., (US 6,009,153).

As per claim 1, 4-10, 18, 19, 21, and 23, Evelend teaches remotely activating options resident on a multi-vendor supported device comprising the step of receiving, at a centralized facility, an activation key (authorization signal key) sent from a first location (third-party source) and configured to activate an option of an in-field device (medical monitoring device) located in a second location; sending the activation key from the centralized facility to the in-field device at the second location. Evelend teaches a system wherein a third-party source is utilized to determine whether activation of an option on the medical monitoring device is possible. The activation option includes activation the monitoring function of the medical monitoring device that was previously inactivate. Evelend specifically teaches gaining authorization of an option for the medical monitoring device from a third-party sources and sending that authorization to a centralized facility which will authorize the activation of the medical monitoring device. (Evelend, Abstract, cols. 2-6)

Evelend is silent in respect to forwarding and receiving a verification script before authorization is given to activate an option on the medial monitoring device (in-field device). However, Fenstermaker teaches a method of verifying the received key to determine whether the received key will enabled the selected option. If the received key is defective then Fenstermaker teaches replying to a centralized facility that the key is defective. (Fenstermaker, Abstract, cols. 3,4, Figs. 3,4) It would have been obvious to one of ordinary skill at the time the invention was made to implement Fenstermaker's method of verifying the received key to determine whether the received activation key

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will enabled the selected option before utilizing the activation key, because doing so would help prevent against defective activation keys being used to activate a selected option. (Fenstermaker, col. 3, lines 28-51)

Fenstermaker is silent in respect to the centralized facility performing the verifying of the activation key. Fenstermaker teaches wherein an internal application of the medical device performs the verification, and if an error is detected related to the received activation key then a reply is sent to the centralized facility. Nonetheless, Houghton specifically teaches a method of remotely located device (server, 10) requesting verification of a security password before a communication signal (activation signal key) is transmitted to a reconfigurable device (fax machine, 5 Houghton, col. 5, lines 1-12) Examiner is taking to position that Houghton request for verification (security password) before transmitting an activation key to the remote device is similar to sending a verification script to the remote device because the request for verification taught by Houghton request for verification of the remote device (security password) before an activation key is transmitted to the remote device . Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to implement into Fenstermaker Houghton's verification method of requesting verification of a security password before a communication signal (activation signal key) is transmitted to a reconfigurable device, because doing so ensure that the operating attempting to reprogram the remote device has the authority to perform the operation. (Houghton, Abstract, cols. 3-10)

As per claim 2 and 20, Evelend teaches wherein the in-field device is located in a second location and does not communicate with the first location.

***Allowable Subject Matter***

Claims 3 and 22 objected to as being dependent upon a rejected base claim.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tammara Peyton whose telephone number is (571) 272-4157. The examiner can normally be reached between 6:30 - 4:00 from Monday to Thursday, (I am off every first Friday), and 6:30-3:00 every second Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Popovici Dov can be reached on (571) 272-4083. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300. Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-2100.

Mailed responses to this action should be sent to:

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Faxes for Official/formal (After Final) communications or for informal or draft communications (please label "PROPOSED" or "DRAFT") sent to:

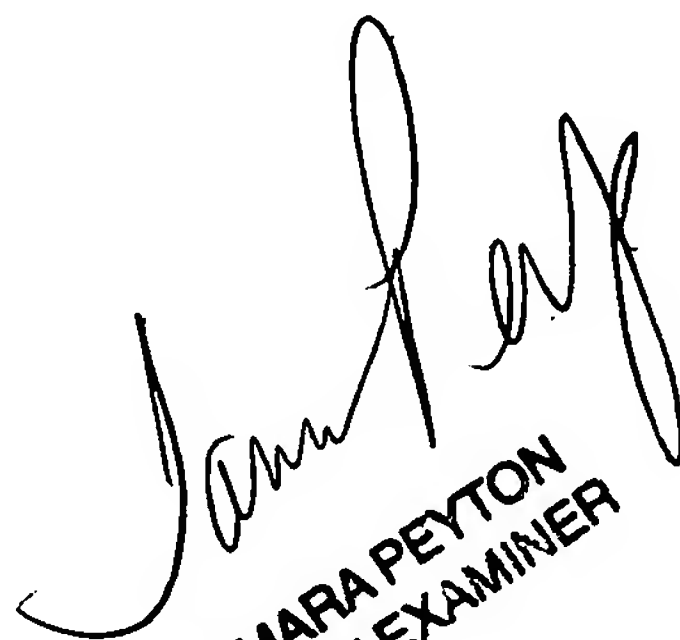
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Hand-delivered responses should be brought to:

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401 Dulany Street

Alexandria, VA 22314.



TAMMARA PEYTON  
PRIMARY EXAMINER

Tammara Peyton

September 14, 2005